

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED

Dec 22 2017


CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ZACHERY LEE ZIEGLER,

Defendant.

3:17-CR-30074-RAL

ORDER ADOPTING REPORT AND
RECOMMENDATION

Defendant Zachery Lee Ziegler is charged with voluntary manslaughter. Ziegler moved to suppress statements he made during an interview with an FBI agent. Doc. 37. Magistrate Judge Mark A. Moreno held an evidentiary hearing during which he received a recording of the interview and heard testimony from two law enforcement officers. On November 29, 2017, Judge Moreno issued a report and recommendation finding that Ziegler's statements were inadmissible in the government's case in chief but could be used as impeachment evidence should Ziegler testify. Doc. 66.

This Court reviews a report and recommendation under the statutory standards found in 28 U.S.C. § 636(b)(1), which provides in relevant part that "[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." "In the absence of an objection, the district court is not required 'to give any more consideration to the magistrate's report than the court considers appropriate.'" United States v. Murillo-Figueroa, 862 F. Supp. 2d 863, 866 (N.D. Iowa 2012) (quoting Thomas v. Arn, 474 U.S. 140, 150 (1985)).

Here, neither Ziegler nor the government has filed objections to the report and recommendation and the fourteen days for doing so has passed. Accordingly, this Court has reviewed the report and recommendation under a clearly erroneous standard of review. See Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam) (explaining that when no objections are filed and the time for filing objections has expired, the district court “would only have to review the findings of the magistrate for clear error”). Finding no clear error, this Court adopts the report and recommendation.

For the foregoing reasons, it is hereby

ORDERED that the Report and Recommendation for Disposition of Motion to Suppress Statement, Doc. 66, is adopted. It is further

ORDERED that Ziegler’s Motion to Suppress Statement, Doc. 37, is granted in part and denied in part as set forth in the Report and Recommendation.

DATED this 20th day of December, 2017.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Roberto A. Lange", is written over a horizontal line.

ROBERTO A. LANGE
UNITED STATES DISTRICT JUDGE